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US DISTRICT CLERK

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EASTERN DISTRICT of KENTUCKY

FILED

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Robert S. Kaiser 10039144
Trial Attorney for PlaintiffAT COVINGTON
LESLIE G. WHITMER

U. S. DISTRICT COURT

UNITED STATES DISTRICT COURT CLERK,
FOR THE EASTERN DISTRICT OF KENTUCKY
AT COVINGTONLESLIE B. REYNOLDS, Individually
and as Natural Parent and Guardian
of LOUISE H. REYNOLDS, a Minor,

: CASE NO. 97-77

Plaintiff,

: AGREED PROTECTIVE
: ORDER

WESTIN HOTEL COMPANY, ET AL.,

Defendants.

In accordance with Rule 26(c) of the Federal Rules of Civil Procedure and by agreement of the parties and for good cause shown, it is hereby ordered that material designated as "Confidential Information" shall be disclosed only as prescribed herein. The restrictions and procedures contained in this Order shall apply to all documents, testimony, interrogatories and other sources from which a party or any other person or entity is called upon to produce any "Confidential Information."

1. "Confidential Information" shall be discoverable by any party if it is otherwise discoverable under the Federal Rules of Civil Procedure. Parties shall designate material as "Confidential Information" as specified in paragraph 2.

2. Any entity required to produce documents, testimony, interrogatories or other information in this litigation may render any material produced confidential and subject to the terms of this Order by placing on the face of such material before it is produced the designation "Confidential Information," "Confidential," or a similar legend. Any party may render

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testimony elicited in depositions or other proceedings in this matter confidential and subject to the terms of this Order by notifying all parties within fifteen (15) days of the date such testimony is transcribed and received by the party, which specific information is deemed to be "Confidential Information" or, in the alternative, by notifying the parties at the time the testimony is elicited which specific testimony is deemed to be "Confidential Information."

3. Unless otherwise ordered by the Court in this proceeding, all "Confidential Information" will be held by the receiving party solely for use in connection with the above-captioned action.

4. "Confidential Information" shall not be disclosed to any person, except:

- (a) outside counsel and in-house counsel for the parties;
- (b) employees of such counsel assigned to and necessary to assist such counsel in the preparation of litigation;
- (c) the parties, as well as officers, directors, agents, including representatives of the parties' insurance companies, employees or former employees of any of the parties who are required by the parties to work directly on this litigation, and then only to the extent necessary to perform such work;

(d) consultants or experts, to the extent deemed necessary by counsel for the prosecution or defense of this litigation; and

(e) the Court.

Any person who makes any disclosure of "Confidential Information" permitted under this paragraph shall advise each person to whom such disclosure is made as to the terms of this Order as specified in paragraph 7. The persons described in paragraph 4(a) through (d) above are enjoined from disclosing "Confidential Information" to any other person, except in conformance with this Order. These restrictions do not apply to use of "Confidential Information" by its Producer.

5. Any person who, at the request of a receiving party, is given access to any "Confidential Information" protected by this Order shall first agree to submit himself or herself to the jurisdiction of this Court for the limited purpose of enforcing this Order and shall agree to be bound by this Order and to keep all information received confidential as provided herein. Each such person shall read this Order in its entirety and sign a copy signifying his or her agreement to be bound by its terms.

6. "Confidential Information" used in connection with any pleading, motion, hearing or trial or otherwise submitted to the Court shall be filed under seal.

7. A party by its counsel may, at any time, serve upon all parties a written notice of objection to continuing to treat any "Confidential Information" as subject to all or any portions of

this Order. Within twenty days of receipt of such notice, the party producing the disputed material shall notify every party in writing whether or not it will agree to remove its claim of confidentiality as to that material. If no agreement can be reached among the parties, any party shall be free to move the Court for an Order of Declassification of the specified material. If the Court finds it appropriate, the Court may examine the material in camera. Until such time as the Court orders that the material be declassified, the material in question shall continue to be treated as subject to the terms of this order.

8. All "Confidential Information" produced subject to this Order (and copies of such "Confidential Information") shall be promptly returned to the producing parties upon conclusion of this litigation. Such conclusion shall be taken and construed as the date sixty days following the entry of a final, non-appealable order disposing of the case.

Date: Sept 17, 1997 Judge William C. Bertelsman

AGREED:

Robert S. Kaiser

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